

Remarks:

Responsive to the Official Action mailed July 28, 2006, and made final, Applicant respectfully requests reconsideration, reexamination and allowance of claims 1 and 3-12 in view of the following remarks.

The Examiner has continued the rejection of claims 1-12 under 35 U.S.C. §103(a) as unpatentable over Young in view of Schulz, both of which have been discussed in detail in prior Actions and Responses. Applicant, however, submits that the Examiner has failed to make a prima facie case that the claimed invention would have been obvious to one of skill in the art.

The gist of the Examiner's argument has continued be that although Young fails to disclose a layer of a film forming polymer between the substrate and the ink, Schulz discloses a printable media having an image receptive layer (binder) on the substrate and that Young and Schultz are analogous art and that it would have been obvious to one of skill in the art to combine the image receptive layer of Schulz with Young to capture most of the ink colorant near a first major surface of the ink receptive layer while allowing most of a fluid vehicle of the ink to pass through the ink receptive layer.

Applicant submits, however, that the Examiner has failed to consider the cited references as a whole in light of the invention as claimed.

The present invention, as stated throughout and as claimed, is directed to a non-overcoated in-mold label composition. In concluding that the claimed invention would have been obvious, the Examiner cited to the Schultz patent for its teaching of the claimed "first down coat". The Examiner likens Schultz's ink receptive layer 26 to the claimed first down coat. In the claimed structure, the graphic is provided on the first down coat, and the label is ready for use.

What the Examiner however fails to consider is that Schultz also requires the laminate 24 in a position overlying the printed image and the ink receptive layer. This is in complete contrast, both structurally and functionally to the presently claimed invention and is inapposite to the purpose of the present invention. As provided throughout the present specification and as clearly recited in the claims, the present invention contemplates a non-overcoated label. Schultz *requires* exactly what the presently claimed invention is intended to avoid -- an overcoated structure.

Accordingly, it is Applicant's position that the Examiner has merely taken selected pieces of the prior art and has failed to take the prior art in total in concluding that the claimed invention would have been obvious.

Even when combined with Young, the *requirement* that Schultz places on overcoating its ink receptive layer does not serve to motive one to combine these references. Rather, it is Applicant's position that the *required* overcoat would teach away from making the claimed non-overcoated label composition.

In summary, Because the Schulz structure would not be used in any manner in a non-overcoated structure, it is Applicant's position that its teaching would not, as asserted by the Examiner, be combined with the disclosure of Young to make obvious the claimed invention, and because of this failure, it is Applicant's position that the Examiner has failed to make a prima facie showing that the claimed invention would have been obvious to one of skill in the art.

Accordingly, Applicant submits that the claims pending in the application, namely claims 1 and 3-12 (claims 13-20 being withdrawn) are allowable over the art of record and respectfully and earnestly solicits early indication of same.


Applicant believes that no fee is due in connection with the present Amendment D. The Commissioner is, however, authorized to charge any underpayment or credit any overpayment to Deposit Account No. 50-2035.

Serial No. 10/791,541
Art Unit 1774

Amendment D

Should the Examiner believe that a telephone interview would expedite prosecution and allowance of the present application, or address any outstanding formal issues, he is respectfully requested to contact the undersigned.

Respectfully submitted,

By 

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